App. F. IX-4

Previous References
Gen Aff-27 (1-6)

1931-32. (Gpl)

File No. A-31

Serial Nos. 1-2, 3

Later References
Secol 20-11-1-4

Reserve

General and Revenue Secretariat.

(8)

Serial Nos. Nil.

Part B for Feby 32

SUBJECT.

Amendment to clause 15 of part VII and cl 2 of the part-IX of the Model form of tinma lease.

General and Revenue Secretariat | Yeel File No. 8 of 1931

Serial No. 1

P.

Prospecting Licenses Mining Leases in British India

From the Yeel to the Hon'ble the Resident in Mysore. No. 507/4/325-1931 d. 15.7.31.

In continuation of his previous letter forwarding a copy of "Mining Rules" Standard Forms of d. 9.1.28, demands for information a copy of the correspondence between the Central Provinces and the Govt of India in the Dept of Industries & Labour regarding amendments to be made to the model forms of a mining lease

The premises are on the subject (Yeel 82-27, sls. 1-6) and a copy of the Mining Rules Forms are not up for perusal. It will be seen from the above file that a copy of the Rules was sent to the Director of Geology last time copies supplied to the Asst. Yeel's Memorandum approved, the same procedure will be adopted now also

Yeel with a draft for acknowledging receipt of the copy and a draft forwarding a copy to the Director of Geology.

N.V.K.P. For perusal before issue 20/7

5.7.31.

D

Sent Cr 21/7

To the Yeel to the Resident. No. pol-141 d. 11.7.31. Acknowledges receipt of the above

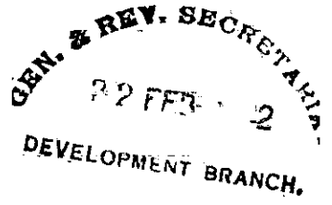
271

Govt. File No. 8 of 1931

General and Revenue Secretariat

To the offg. Director of Geology. No. D. 645 3
d. 31.7.31. Forwards a copy of the above correspondence re: amendments to the model form of a mining lease.

B
MV
20.2.32.



271 Pol. 100

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. 5074 E&2-(1)
335-1931.

GEN. & REV. SECT.
20 JULY
DEVELOPMENT BRN.

FROM

Captain G. Kirkbride,

SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of

His Highness the Maharaja of Mysore.

Dated Bangalore, 15-6 July *1931.*

Dev 17/7/31

Subject.

Amendment of clause 15 of Part VII and Clause 2 of Part IX of the Model form of Mining Lease.

SIR,

D 20.7.31 C/M

In continuation of Major Evans-Gordon's letter No.210 X dated the 9th January, 1928, I am directed to forward, for

1. Letter from the Government of the Central Provinces to the Government of India in the Department of Industries and Labour, No.1792-1028-XIII, dated the 12th July, 1930.	the information of the Government of
2. Letter from the Government of India in the Department of Industries and Labour to the Government of the Central Provinces No. M.75, dated the 1st June, 1931.	

Mysore, a copy of the correspondence specified in the margin, regarding amendments to the model form of a mining lease.

I have the honour to be,

Sir,

Your most obedient servant,

for SECRETARY TO THE RESIDENT.

Copy of letter No. 1792/1028XIII, dated the 12th July 1930, from the Financial Secretary to Government, Central Provinces, to the Secretary to the Government of India, Department of Industries and Labour, Simla.

.....

Amendment of Clause 15 of Part VII and Clause 2 of Part IX of the Model form of Mining Lease.

.....

I am directed by the Governor in Council to address you on the subject of the amendment of clause 15 of Part VII and clause 2 of Part IX of the model form of mining lease forwarded with Mr. Tallent's letter No. 667, dated the 16th March 1918.

2. In a recent case, a mining lease for coal was attached by the Civil Court, Chhindwara, for the satisfaction of a money decree. On receipt of the information, the local Government brought the provisions of clause 15 of Part VII of the lease to the notice of the Civil Court with a request that before the mine was put to auction by the Court the contents of that clause might be announced to the intending purchasers so as to enable the approved bidder to approach Government for the necessary sanction to the assignment of the lease in his favour. During the course of the proceedings, however, it was held by the Court that in the absence of any statutory prohibition against the sale, the leasehold rights of a lessee are saleable by a Civil Court without the sanction of the local Government on the strength of the rulings contained in I.L.R.XX-Calcutta 273, 9 C.P.L.R.134 and 14 C.P.L.R. 114. The case was subsequently compromised and the property released from attachment and the execution struck off without holding sale, but the above decision of the

Civil

Civil Court appears to the local Government to strike at the root of the mining policy and the administration of mineral concessions and requires serious attention.

3. Transfer of a mining lease without the previous sanction of the local Government constitutes a breach of clause 15 of Part VII of the model form of lease and can ordinarily be suitably dealt with by concellation of the lease and re-entry upon the area under clause 2 of Part IX, if necessary. The local Government is, however, advised that it is a settled law that a sale in execution of a Civil Court decree is not a breach of the covenant 'not to transfer without previous sanction' and that the mining rule not being statutory rules having the force of law are not binding on the lessee. Moreover, from the preamble of the lease the rights and liabilities of the parties are governed by the lease alone and in the absence of the breach of any covenant in the lease the local Government has no power either to re-enter upon the premises or to cancel the lease

4. In these circumstances I am to request that the Government of India may be pleased to modify clause 15 of Part VII and clause 2 of Part IX of the model form of lease so as to preclude the leasehold rights of a lessee from being attached or sold without the previous sanction of the local Government and in the event of their being so attached or sold or the lessee being adjudicated as insolvent, to enable the local Government to cancel the lease and re-enter upon the premises.

5. Draft amendments which the local Government proposes to the above two clauses are enclosed to this letter for the approval of the Government of India.

Copy of a letter No. M75, dated Simla, the 1st June 1931, from the Assistant Secretary to the Government of India, Department of Industries and Labour, to the Financial Secretary to the Government, Central Provinces, Commerce and Industry Department.

.....

Amendment of the standard form of mining lease.

.....

With reference to your letter No. 1792/1028XIII, dated the 12th July 1930, I am directed to say that the Government of India approve of the following amendments being made to the standard form of mining lease forwarded with Mr. Chibber's letter No. M75, dated the 9th December 1927:-

Flag N (page 43 of Rules)

(1) Clause 15 of Part VII, After the word "Local Government" insert the following:-

"nor shall the lessee/lessees allow this lease or any interest hereunder to be attached or sold in compliance with any decree or order of a Civil Court or Revenue Officer"..

" " O (page 47)

(2) Clause 2 of Part IX-

(a) In the seventh line between the words "performed" and "or" insert the following:-

"or if this lease or any interest hereunder is attached or sold in compliance with any decree or order of a Civil Court or Revenue Officer".

(b) In the nineteenth line between the expressions "in any such case" and "it shall be lawful" insert the following:-

"or if the lessee/lessees shall be adjudicated insolvent or if, in the event of the lessee being a company, an order shall be made for winding up such company or an effective resolution shall be passed for winding up"

2 drafts

Appendix F G–1]

SUBJECT.....

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Section Govt.
File No. 8–31.
Serial No. 2

Diary No. of letter replied to 271

No. Pol. 141/

To The Secy to the Hon'ble the Resident in Mysore.

General and Revenue Secretariat.

the 193

Date of issue 31/7/3

Sir,

I am directed to acknowledge with thanks the receipt of a copy of the correspondence between the Govt of the Central Provinces & the Govt of India on the Dept of Industries & Labour regarding amendments to the Model Form of a Mining Lease, received with your letter No. 5074/115–1931 d. 15.7.31.

I have etc.,

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Appendix F G–1]

SUBJECT.....

Section Genl,
File No. 8–31,
Serial No. 3

Diary No. of letter replied to 2211

No. D 645/Genl

To The offg. Director of Geology in Mysore.

General and Revenue Secretariat

the 193.

Date of issue 21/3/31

Signed by Mr C.E. Newcombe

Typing Section
Please make 4 copies of the enclosure (7 pages)

Sir,

In continuation of this office X letter No. D. 1095 4/Genl. 82–27–5 d. 14.4.28 forwarding for reference in your office a copy of the following amended Rules and the Standard Forms of Prospecting License & Mining Lease in force in British India, I am directed to send herewith a copy X of the correspondence between the Central Provinces and the Govt of India in the Dept of Industries & Labour regarding further amendments to received from the Regy

List of enclosures.....

Copied by.....

Examined by.....

made to the model form of a min-
ing lease, received from the Board:

I have etc.,

a
257

Dan Geo to Gent.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. D 645/Rev-3/57 Dated, Bangalore, 27th July 1931.

From

The *Secretary to the Government of His Highness the Maharaja of Mysore, Development Department.*

To

The Offg. Director of Geology in Mysore,

Bangalore.

Sir,

In continuation of this office letter No.D.10954/Geol.82-27-5 dated 14th April 1928 forwarding for reference in your office a copy of the amended Mining Rules and the Standard Forms of Prospecting License and Mining Lease in force in British India, I am directed to send herewith a copy of the correspondence between the Central Provinces and the Government of India in the Department of Industries and Labour received from the Residency regarding further amendments to be made to the model form of a mining lease.

I have the honour to be,

Sir,

Your most obedient servant,

for Secretary to Government,
Development Department.